

To: Derrick Tokos, AICP, City of Newport

Date: June 26, 2015

From: Todd Chase and Anthony Martin, FCS GROUP

CC: David Helton, Oregon Department of Transportation

RE: Newport LID TGM Project, Task 2 LID Policy Development, Issues and Options (D3)

INTRODUCTION

Cities in Oregon have the statutory authority to establish local improvement districts (LIDs) to pay for capital improvements and levy special assessments on the benefited property. Special assessments are a lien on properties, which may be paid in one lump sum (upfront) or payable in annual installments for a minimum of 10 and a maximum 30 years. LIDs are used for capital improvement projects that benefit properties within a defined district area boundary.

An advantage of LIDs from the public perspective is the ability to attain a consistent level of revenue generation early in the development process. Financial intermediaries such as banks view LIDs as a more reliable funding source than others (such as SDCs) and are more apt to provide loans or bonds based on future LID revenue streams.

LIDs benefit specific properties and are effective ways to enable local improvements, but can be administratively burdensome and potentially contentious. This Memorandum examines policy issues related to LIDs and options Oregon cities and counties have for addressing these issues.

The following table provides context for delineating key issues including the following:

- A. Eligible Uses of LIDs
- B. Capital Costs and LID Assessments
- C. Potential Funding Sources to Match LIDs
- D. Administrative Costs/Staffing
- E. Consideration of Pre-Existing Non-Remonstrance Agreements
- F. Geographic Benefit Area of Determination
- G. Measures of Determining Benefit to Properties
- H. Properties and Property Owners Affected
- I. Public Outreach
- J. LID Financing
- K. System Development Charges for LIDs
- L. LID Timing

The table also contains state requirements, current city of Newport requirements, and options to address the issues. Note that the state requirements are not exhaustive, but rather guidelines on specific issues related to LIDs.

LOCAL IMPROVEMENT DISTRICT ISSUES AND OPTIONS

Issue	Discussion	State Requirements	Current Newport Requirements*	Options
A. Eligible Uses of LIDs	<p>LIDs can be used only for local improvement projects (see complete ORS definition of local improvements in Appendix).</p> <p>Improvements shall meet the minimum design standards adopted for the public facilities.</p>	<p>A local improvement is a capital construction project, or part thereof. Capital construction does not include maintenance and repairs. [ORS 310.140]</p>	<p>LIDs can be used for "street, sewer, sidewalk, drain, and/or other public improvements."</p>	<ul style="list-style-type: none"> ➤ The local government should only consider LIDs for local improvements defined by state/local law. ➤ The local government should require an Engineer's Report to be completed and adopted by council prior to formation of a LID.
B. Capital Costs and LID Assessments	<p>There are risks if actual capital costs are significantly higher than initial estimates.</p>	<p>Local government determines the method for calculating capital costs. Estimated cost can be based on contract award or departmental cost. [ORS 223.329 2b]</p>	<p>Any entity can construct improvements as long as they are in accordance with public contracting.</p> <p>If a final assessment significantly exceeds estimates at time of LID formation, a new presentation to council occurs.</p>	<ul style="list-style-type: none"> ➤ The Engineer's Report must utilize conservative cost estimates to ensure that initial cost estimates are as accurate as possible. ➤ Property owners and/or the local government may desire to put a cap on LID assessment levels to mitigate risks. ➤ LID assessments on lots should be set at a level below assessed values.

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Issue	Discussion	State Requirements	Current Newport Requirements*	Options
C. Potential Funding Sources to Match LIDs	<p>The local government can consider public and private sources of funding to match LIDs (e.g. general funds, property dedications, urban renewal funds, state or federal grants, SDCs, etc.).</p> <p>The timing and reliability of matching funds is an important consideration because revenue/funds are required to pay for construction and/or annual debt service.</p>	<p>LIDs do not need to fund an entire project.</p> <p>Local governments determine the level of funds used to pay for public capital facilities. [ORS 223.389 2b]</p>		<ul style="list-style-type: none">➤ The local government must ensure that all funds used to match the LID are reliable and timed correctly.➤ The local government should have an established funding plan/strategy with contingencies for LID matched funds.
D. Administrative Costs/Staffing	<p>Administrative costs of establishing a LID include staff time, meeting time, engineering costs, legal costs, and financial costs.</p> <p>The local government will also face the administrative cost of billing and collections related to a LID.</p>		<p>Administrative costs are to be included in the LID assessment.</p>	<p>The local government should audit prior LID formation costs to better understand administrative costs.</p> <p>The local government has the option of billing/collecting LID assessments or can contract out with 3rd party contractors for billing and collections.</p>

Issue	Discussion	State Requirements	Current Newport Requirements*	Options
E. Consideration of Pre-Existing Non-Remonstrance Agreements	<p>Non-remonstrance agreements may have temporal limitations even if they do not have an exact expiration date.</p> <p>In general, non-remonstrance agreements require a stated or implied 'quid pro quo' of benefit to the property in proportion to a planned capital facility investment.</p> <p>Non-remonstrance agreements do not preclude a property owner from voicing opposition to LID formation.</p>		<p>If two-thirds of the property area owners remonstrate against the LID formation, Council cannot form the LID. Exceptions include if the LID is an emergency or if the public improvement is a sidewalk.</p>	<ul style="list-style-type: none"> ➤ The local government should ensure that non-remonstrance agreements have a 'quid pro quo' element. ➤ The local government may consider vesting rights of prior LID non-remonstrance agreements by placing higher priority on building improvements in areas with aging agreements or allowing aging agreements to sunset.
F. Geographic Benefit Area Determination	<p>A local area of benefit must be defined and must list affected tax lots early in the LID formation process.</p>	<p>The local government determines the method for calculation of assessments based on the "special and peculiar benefits accruing to the lot from the improvement." [ORS 223.389 2c]</p>	<p>The Engineer's Report must define each parcel specifically benefitted.</p>	<ul style="list-style-type: none"> ➤ The Engineer's Report should include a map/list of tax lots affected. ➤ Zones of benefit may be considered within a LID with varying levels of assessments to enhance equity and support for the LID.

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Issue	Discussion	State Requirements	Current Newport Requirements*	Options
G. Measures of Determining Benefit to Properties	<p>The local government must ensure that benefit is equitable among affected properties.</p> <p>There are multiple ways to determine benefit to property owners such as zoning, proximity to improvements, property value, existing and future development potential, etc.</p>	<p>The local government determines the method for calculating assessments. [ORS 223.389 1]</p>	<p>Determined by Engineer's Report.</p>	<ul style="list-style-type: none">➤ In general, as a project's impact/cost increases, its area of benefit increases.➤ Streets: apportion benefit based on square footage of frontage, by square footage of area, trip generation and assessed value created.➤ Water and sewer projects: often apportion benefits by ERUs served.➤ Stormwater projects: commonly apportioned based on impervious square footage of surface area
H. Properties and Property Owners Affected	<p>As the number of affected properties increase, the cost of LID implementation and administration increases.</p> <p>As the number of affected properties decreases, the potential financial risk to the local government because of default by property owners increases.</p>		<p>Determined by Engineer's Report.</p>	<ul style="list-style-type: none">➤ The local government should establish separate LID policies and procedures for "low" and "high" cost LIDs and "single developer" LIDs.

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Issue	Discussion	State Requirements	Current Newport Requirements*	Options
I. Public Involvement	<p>There is risk of adverse reaction to LID formation when property owners feel “left out” of the assessment methodology process.</p> <p>Extra effort is usually required to reach “absentee” property owners.</p>	<p>Property owners shall be given at least 10 days’ notice for meetings regarding the LID formation. Notice of the estimated assessment shall be mailed or delivered to property owners. [ORS 223.389 2b]</p>	<p>Property owners will be given at least 10 days’ notice with information on the improvement, date of public hearing, and initial assessment.</p>	<ul style="list-style-type: none">➤ The local government should provide notice to the public as soon as it is available (e.g. assessment change, boundary change).➤ The local government should consider outreach beyond the minimum requirements, such as using certified mail, or email data bases of property owner contacts.

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Issue	Discussion	State Requirements	Current Newport Requirements*	Options
J. LID Financing	LID financing places risk on the local government since it is ultimately responsible for the LID debt payments. If a property owner defaults, the local government still must make payments on the debt.	Property owners can ask for installment payments, which will payback over a period of greater than 10 years but less than 30 years. A contract can be agreed upon for payback less than 10 years. [ORS 223.215 1b and ORS 223.215 2c]	The city requires a set interest rate on installment dependent on the type of funding the city receives.	<ul style="list-style-type: none">➤ The local government should consult with bond council prior to considering LID financing.➤ The local government can require an escrow reserve fund to be established by the affected developers to mitigate risk of LID payment default.➤ The local government may issue full faith and credit bonds to achieve low interest rates, and can pledge multiple funding sources to meet debt service.
K. System Development Charges for LIDs	SDCs result in revenue only after development occurs and is not considered a reliable or stable source of revenue for meeting debt requirements.	A system development charge cannot include any fees assessed or collected as part of a LID or a charge in lieu of a LID assessment. [223.299 (b)]		<ul style="list-style-type: none">➤ The local government must be sure to keep LID and SDC cost shares separate if both sources of funding are used on the same improvement.

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L. LID Timing	There is risk after LIDs are formed and the construction of public facilities and private development is delayed due to economic, political, or development issues.			<ul style="list-style-type: none">➤ Local government can set a construction timeframe for LID improvements and reassess the LID if construction does not occur in that timeframe.➤ Local governments can create an LID sunset provision if construction or development has not occurred.

*Newport Municipal Code Chapter 12.05 cited.

CONCLUSIONS

There is a multitude of issues local governments face when creating LIDs. The following are three general conclusions to address issues related to LIDs.

STRUCTURING A LID EFFECTIVELY

A LID must be structured to include all costs related to the LID formation including capital construction and additional administrative and financing costs. Oregon law gives local governments leeway in determining eligible LID costs. Local governments should also consider LID formation costs and may charge a separate LID fee to cover those costs. Governments should also consider the long-term cost of LID assessment billing and collections; and whether there is adequate staff to perform those duties or if a third-party contractor is needed.

Additionally, if the local government finances a LID with bonds, it should consider techniques to mitigate risks associated with potential default by property owners within the district. This can mean requiring formation of an escrow fund to be established by developers, and requiring construction assurance bonds. The local government should also be sure to discuss LID debt/bonding and any financing covenants with their bonding council.

Individual LID assessments should not exceed the assessed property value of each lot after construction of the public facility is completed (and before private development occurs). Keeping the ratio of assessments to valuation levels at less than 1:3 is recommended. For example, a lot with a \$10,000 LID assessment should have a property value of at least \$30,000 once the improvement is constructed.

INVOLVING PROPERTY OWNERS

The local government must be sure to involve all affected property owners in the LID formation process. This includes not only providing the notices required by law, but giving property owners the opportunity to provide input regarding benefit assessment determination, costs, and other issues. Additionally, the local government must be sure to inform citizens about new information related to the LID as soon as possible to ensure transparency.

RELYING ON ENGINEERING REPORT/CITY EXPERTISE

The Engineering Report on LID formations must contain all of the technical details related to capital construction, geographic area of benefit, method of assessment, and other items. This report is to be completed by a private third party to ensure objectivity. The way the report apportions benefit is very important because it will determine overall impact on specific lots.

APPENDIX

SUMMARY ITEM

State of Oregon Summary Document

A local improvement district is a geographic area in which real property is taxed to defray all or part of the costs of a public improvement. The distinctive feature of a special assessment is that its costs are apportioned according to the estimated benefit that will accrue to each property. In Oregon, local improvement districts are governed by local ordinances, but the Bancroft Bonding Act (ORS 223.205-295) addresses the means by which local governments may finance public improvements.

Three “principles of benefit” describe the main factors to be considered by a public agency when deciding to use special assessment. They are:

Direct Service.

An example would be the construction of a street that gives access to a property previously without access. The benefit exists in terms of improved land development value.

Obligation to Others.

This is not an intuitively obvious benefit. An example would be the construction of a storm sewer and catch basin, which would have no direct service benefit to a property on the top of a hill. The benefit exists in the fact that the uphill land may be developed and provided access without causing damage to downhill land.

Equal Sharing.

An example would be a sidewalk down the length of a street. Each property owner is usually responsible for the sidewalk in front of the property, not always because the property owner desires a sidewalk, but because all properties served by the sidewalk system benefit equally from it.

Source: <http://library.state.or.us/repository/2013/201305201301031/index.pdf>

APPLICABLE ORS LAW

SDC Caveat

223.299 (b) “System development charge” does not include any fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed upon a land use decision, expedited land division or limited land use decision.

DEFINITION OF LOCAL IMPROVEMENTS

223.001

(2) “Capital construction project” means a project for “capital construction,” as defined under ORS 310.140.

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(9) “Local improvement” has the meaning given the term under ORS 310.140.

310.140

(j) “Local improvement” means a capital construction project, or part thereof, undertaken by a local government, pursuant to ORS 223.387 to 223.399, or pursuant to a local ordinance or resolution prescribing the procedure to be followed in making local assessments for benefits from a local improvement upon the lots that have been benefited by all or a part of the improvement:

(A) That provides a special benefit only to specific properties or rectifies a problem caused by specific properties;

(B) The costs of which are assessed against those properties in a single assessment upon the completion of the project; and

(C) For which the property owner may elect to make payment of the assessment plus appropriate interest over a period of at least 10 years.

(k)(A) “Maintenance and repairs, the need for which could be reasonably anticipated” means activities, the type of which may be deducted as an expense under the provisions of the federal Internal Revenue Code, as amended and in effect on January 3, 2013, that keep the property in ordinarily efficient operating condition and that do not add materially to the value of the property nor appreciably prolong the life of the property.

(B) “Maintenance and repairs, the need for which could be reasonably anticipated” does not include:

(i) Maintenance and repair of property that is required by damage, destruction or defect in design, or that was otherwise not reasonably expected at the time the property was constructed or acquired, or the addition of material that is in the nature of the replacement of property and that arrests the deterioration or appreciably prolongs the useful life of the property; and

(ii) Street and highway construction, overlay and reconstruction.

...

(d)(A) “Capital construction” means, for bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent prior to June 20, 1997, the construction, modification, replacement, repair, remodeling or renovation of a structure, or addition to a structure, that is expected to have a useful life of more than one year, and includes, but is not limited to:

(i) Acquisition of land, or a legal interest in land, in conjunction with the capital construction of a structure.

(ii) Acquisition, installation of machinery or equipment, furnishings or materials that will become an integral part of a structure.

(iii) Activities related to the capital construction, including planning, design, authorizing, issuing, carrying or repaying interim or permanent financing, research, land use and environmental impact studies, acquisition of permits or licenses or other services connected with the construction.

(iv) Acquisition of existing structures, or legal interests in structures, in conjunction with the capital construction.

(B) “Capital construction,” for bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, has the meaning given that term in subparagraph (A) of this paragraph except as provided in subparagraphs (C) and (D) of this paragraph.

(C) “Capital construction” includes public safety and law enforcement vehicles with a projected useful life of five years or more.

(D) “Capital construction” does not include:

(i) Maintenance and repairs, the need for which could be reasonably anticipated;

(ii) Supplies and equipment that are not intrinsic to the structure; or

(iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, construction, remodeling or renovation of a structure, or the repair of a structure that is required because of damage or destruction of the structure.

(e)(A) “Capital costs” means costs of land and of other assets having a useful life of more than one year, including costs associated with acquisition, construction, improvement, remodeling, furnishing, equipping, maintenance or repair.

(B) “Capital costs” does not include costs of routine maintenance or supplies.

(f)(A) “Capital improvements” means, for bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any bonded indebtedness approved by electors before December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, land, structures, facilities, personal property that is functionally related and subordinate to real property, machinery, equipment or furnishings having a useful life longer than one year.

(B) “Capital improvements,” for bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, has the meaning given that term in subparagraph (A) of this paragraph except as provided in subparagraphs (C) and (D) of this paragraph.

(C) “Capital improvements” includes public safety and law enforcement vehicles with a projected useful life of five years or more.

(D) “Capital improvements” does not include:

(i) Maintenance and repairs, the need for which could be reasonably anticipated;

(ii) Supplies and equipment that are not intrinsic to the structure; or

(iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, construction, remodeling or renovation of a structure, or the repair of a structure that is required because of damage or destruction of the structure.

ASSESSMENTS FOR LOCAL IMPROVEMENTS

223.387 Description of real property; effect of error in name of owner. In levying, collecting and enforcing assessments for local improvement, the following shall apply:

(1) Real property may be described by giving the subdivision according to the United States survey when coincident with the boundaries thereof, or by lots, blocks and addition names, or by giving the boundaries thereof by metes and bounds, or by reference to the book and page of any public record of the county where the description may be found, or by designation of tax lot number referring to a record kept by the assessor of descriptions of real properties of the county, which record shall constitute a public record, or in any other manner as to cause the description to be capable of being made certain. Initial letters, abbreviations, figures, fractions and exponents, to designate the township, range, section, or part of a section, or the number of any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any description of real property.

(2) If the owner of any land is unknown, the land may be assessed to “unknown owner,” or “unknown owners.” If the property is correctly described, no final assessment shall be invalidated by a mistake in the name of the owner of the real property assessed or by the omission of the name of the owner or the entry of a name other than that of the true owner. Where the name of the true owner, or the owner of record, of any parcel of real property is given, the final assessment shall not be held invalid on account of any error or irregularity in the description if the description would be sufficient in a deed of conveyance from the owner, or is such that, in a suit to enforce a contract to convey, employing such description a court of equity would hold it to be good and sufficient.

(3) Any description of real property which conforms substantially to the requirements of this section shall be a sufficient description in all proceedings of assessment relating or leading to a final assessment for a local improvement, foreclosure and sale of delinquent assessments, and in any other proceeding related to or connected with levying, collecting and enforcing final assessments for special benefits to the property. [1959 c.219 §1; 1965 c.282 §4; 1971 c.198 §1; 1991 c.902 §36]

223.389 Procedure in making local assessments for local improvements.

(1) The governing body of a local government may prescribe by ordinance or resolution the procedure to be followed in making estimated assessments and final assessments for benefits from a local improvement upon the lots that have been benefited by all or part of the local improvement, to the extent that the charter of

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the local government does not prescribe the method of procedure. In addition, in any case where the charter of a local government specifies a method of procedure that does not comply or is not consistent with the requirements of the Oregon Constitution, the governing body of the local government may prescribe by ordinance or resolution the procedure that shall comply and be consistent with the requirements of the Oregon Constitution, and the provisions of the ordinance or resolution shall apply in lieu of the charter provisions.

(2)(a) The ordinance or resolution prescribing the procedure shall provide for adoption or enactment of an ordinance or resolution designating the local improvement as to which an assessment is contemplated, describing the boundaries of the district to be assessed. Provision shall be made for at least 10 days' notice to owners of property within the proposed district in which the local improvement is contemplated. The notice may be made by posting, by newspaper publication or by mail, or by any combination of such methods. The notice shall specify the time and place where the governing body will hear and consider objections or remonstrances to the proposed local improvement by any parties aggrieved thereby.

(b) If the governing body determines that the local improvement shall be made, when the estimated cost thereof is ascertained on the basis of the contract award or the departmental cost of the local government, the governing body shall determine whether the property benefited shall bear all or a portion of the cost. The recorder or other person designated by the governing body shall prepare the estimated assessment to the respective lots within the assessment district and file it in the appropriate office of the local government. Notice of the estimated assessment shall be mailed or personally delivered to the owner of each lot proposed to be assessed. The notice shall state the amounts of the estimated assessment proposed on that property and shall fix a date by which time objections shall be filed with the recorder. Any objection shall state the grounds for the objection. The governing body shall consider the objections and grounds and may adopt, correct, modify or revise the estimated assessments.

(c) The governing body shall determine the amount of estimated assessment to be charged against each lot within the district, according to the special and peculiar benefits accruing to the lot from the local improvement, and shall by ordinance or resolution spread the estimated assessments. [1959 c.219 §2; 1991 c.902 §37; 2003 c.802 §28]

223.391 Notice of proposed assessment to owner of affected lot. If a notice is required to be sent to the owner of a lot affected by a proposed assessment, the notice shall be addressed to the owner or the owner's agent. If the address of the owner or of the owner's agent is unknown to the recorder, the recorder shall mail the notice addressed to the owner or the owner's agent at the address where the property is located. Any mistake, error, omission or failure with respect to the mailing shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner, or, if personal service cannot be had, then by publication once a week for two successive weeks in a newspaper designated by the governing body and having general circulation within the boundaries of the local government where the property is located. [1959 c.219 §3; 1991 c.902 §38; 2003 c.802 §29]

223.393 Estimated and final assessments become liens. Estimated and final assessments shall become a lien upon the property assessed from and after the passage of the ordinance or resolution spreading the same and entry in appropriate lien record of the local government. The estimated assessment lien shall continue until the time the estimated assessment becomes a final assessment. The local government may enforce collection of such assessments as provided by ORS 223.505 to 223.650. [1959 c.219 §4; 1991 c.902 §39; 2003 c.802 §30]

223.395 Deficit assessments or refunds when initial assessment based on estimated cost. If the initial assessment has been made on the basis of estimated cost, and upon the completion of the work the cost is found to be greater than the estimated cost, the governing body may make a deficit assessment for the

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additional cost. Proposed assessments upon the respective lots within the assessment district for the proportionate share of the deficit shall be made; and notices shall be sent; opportunity for objections shall be given; such objections shall be considered; and determination of the assessment against each particular lot, block or parcel of land shall be made as in the case of the initial assessment; and the deficit assessment spread by ordinance. If assessments have been made on the basis of estimated cost, and upon completion the cost is found to be less than the estimated cost, provision shall be made for refund of the excess or overplus. [1959 c.219 §5; 1991 c.902 §40]

223.399 Powers of local government concerning assessments for local improvements. The governing body of a local government may impose additional procedural requirements. The procedural provisions of ORS 223.387 to 223.399 shall apply only where the charter or an ordinance of a local government does not specify otherwise and the charter or ordinance provisions comply and are consistent with the requirements of the Oregon Constitution. The charter or ordinance provisions shall apply to local improvements permitted by law. A local government may not authorize a local improvement prohibited by percentage of remonstrance or otherwise under the charter of the local government. [1959 c.219 §8; 1965 c.133 §1; 1991 c.902 §41; 2003 c.802 §31]

223.401 Review of assessment. Notwithstanding any of the provisions of ORS 223.387 to 223.399, owners of any property against which an assessment for local improvements has been imposed may seek a review thereof under the provisions of ORS 34.010 to 34.100. [1965 c.133 §2]

223.405 Definitions for ORS 223.405 to 223.485. As used in ORS 223.405 to 223.485, unless the context requires otherwise, “objection” includes remonstrances. [Amended by 1965 c.282 §5; 1991 c.902 §42]

Relevant Bancroft Bonding Laws

223.210 Right of property owners to apply for installment payment of assessment. (1) If the governing body of a local government has proceeded to cause any local improvement to be constructed or made within the corporate limits of the local government, and has determined the final assessment for the local improvement against the property benefited thereby or liable therefor, according to applicable law, the local government shall cause notice of the final assessment to be published. The notice shall identify the local improvement for which the assessment is to be made, each lot to be assessed and the final assessment for each lot. In addition, the notice shall state that the owner of any property to be assessed shall have the right to make application to the local government for payment of the final assessment in installments as provided in this section. A copy of the notice shall be mailed or personally delivered to the owner of each lot to be assessed.

(2) The owner of any property to be so assessed, at any time within 10 days after notice of final assessment is first published, may file with the recorder a written application to pay:

(a) The whole of the final assessment in installments; or

(b) If part of the final assessment has been paid, the unpaid balance of the assessment in installments.

(3) At the option of the local government, an installment application may be filed more than 10 days after notice of the final assessment is first published. [Amended by 1957 c.103 §2; 1957 c.397 §1; 1967 c.239 §1; 1991 c.902 §9; 2003 c.802 §5]

223.215 Contents of application to pay in installments; computation of installments. (1)(a) The installment application shall state that the applicant does thereby waive all irregularities or defects,

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jurisdictional or otherwise, in the proceedings to cause the local improvement for which the final assessment is levied and in the apportionment of the actual cost of the local improvement.

(b) The application shall provide that the applicant agrees to pay the final assessment over a period of not less than 10 years nor more than 30 years and according to such terms as the governing body of the local government may provide. The governing body may provide that the owner of the assessed property may elect to have the final assessment payable over a period of less than 10 years and according to such terms as the governing body may provide.

(c) The application shall also provide that the applicant acknowledges and agrees to pay interest at the rate provided by the governing body of the local government on all unpaid assessments, together with an amount, determined by the governing body, sufficient to pay a proportionate part of the cost of administering the bond assessment program and issuing the bonds authorized under ORS 223.235, including but not limited to legal, printing and consultant's fees.

(d) The application shall also contain a statement, by lots or blocks, or other convenient description, of the property of the applicant assessed for the improvement.

(2) In connection with the final assessments for any local improvement, the governing body of the local government may establish a procedure by which an owner of any property to be assessed may irrevocably elect in writing to have the final assessment levied for a number of years less than 10, which shall be determined by the governing body. The written election shall:

(a) Be signed by the owner or a duly authorized representative of the owner;

(b) Contain a description of the assessed property and the local improvement for which the assessment is made; and

(c) Contain a statement by the owner acknowledging that the improvement is a local improvement as described under ORS 223.001 (9), that payment of the final assessment against the properties benefited by the local improvement plus interest may be spread over at least 10 years and that, notwithstanding any provision of law, the owner consents to make payments over a period of less than 10 years and to have the assessment levied on the benefited property accordingly.

(3) The election under subsection (2) of this section shall be recorded in the bond lien docket for the local improvement to which the assessment relates. From and after the time at which the written election is so recorded, it shall be valid and binding upon all subsequent owners of the property or any part thereof.

[Amended by 1957 c.103 §3; 1959 c.653 §2; 1969 c.531 §1; 1971 c.100 §1; 1975 c.320 §1; 1981 c.322 §1; 1985 c.656 §1; 1991 c.902 §11; 2003 c.802 §6]

223.265 Payment of installments; due dates. (1) The installments due and payable under an assessment contract shall be due and payable periodically as the governing body of the local government shall determine but shall not be due and payable over a term in excess of 30 years. Each installment is due and payable with interest as described under subsection (3) of this section.

(2) The installments and interest are payable to the treasurer by the property owner whose application to pay the cost of the local improvement by installments has been filed as provided in ORS 223.210.

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Newport LID, Task 2 LID Policy Development, Issues and Options (D3)

(3) The amount of each installment (percentage of the total final assessment) shall be determined by the governing body of the local government and shall be as appears by the bond lien docket described in ORS 223.230. Each installment shall be due and payable with the accrued and unpaid interest on the unpaid balance of the final assessment amount at the rate per annum determined by the governing body of the local government under ORS 223.215.

(4) The first payment shall be due and payable on the date that the governing body shall determine, and subsequent payments shall be due and payable on subsequent periodic dates thereafter as shall have been determined by the governing body. [Amended by 1957 c.103 §10; 1959 c.653 §6; 1969 c.531 §3; 1971 c.100 §3; 1975 c.320 §4; 1981 c.322 §4; 1991 c.902 §18; 2003 c.802 §12]

223.280 Right of owner to prepay balance and discharge lien. At any time after issuance of bonds under ORS 223.235, any owner of a lot against which the final assessment is made and lien docketed may pay into the treasury of the issuing local government the whole amount of the final assessment for which the lien is docketed, together with the full amount of interest and late payment penalties and charges accrued thereon to the date of payment. Upon producing to the recorder of the local government the receipt of the treasurer, the recorder shall enter in the lien docket opposite the entry of the lien the fact and date of the payment and that the lien is discharged. [Amended by 1991 c.902 §21; 2003 c.802 §15]